



**Testimony of Jeffrey Shear, Deputy Commissioner for  
Treasury, Payments and Operations**

**On**

**Legislation Related to Violations Adjudicated  
by the Environmental Control Board**

**November 19, 2015**

Good afternoon Chairwoman Ferreras-Copeland and Chairman Kallos, and members of the Committee on Finance and Governmental Operations. I am Jeffrey Shear, Deputy Commissioner for Treasury, Payments and Operations for the Department of Finance (DOF). Thank you again for the opportunity to present our report on the collection of debt resulting from violations adjudicated by the Environmental Control Board (ECB), which is part of the Office of Administrative Trials and Hearings (OATH).

These summonses are issued by many City agencies for safety and environmental violations, such as building code and sanitation infractions. The primary purpose of the violations is to change behavior so that we may all live in a safer, cleaner city. Collecting past due debt on these violations provides incentives for this behavior and has the additional benefit of generating revenue for essential City services. As you know, DOF testified on this topic last year. At that time, we indicated that while this debt is more challenging to collect than other types of City-issued debt, there was much more that we could do to better understand and collect it. We agreed with the Council that DOF could better analyze the debt, take more enforcement action, and generate more revenue. This year, I am here to say that we have made good progress.

We supported Council-sponsored legislation to improve the quality and transparency of information on ECB-adjudicated debt. This legislation became Local Law 11, which requires us to submit a report to the Council and the public each November that focuses on the overall inventory of debt as well as information pertaining to judgments DOF received in the previous fiscal year. We presented the first report on November 2<sup>nd</sup> and will review it today. We also supported the provisions of Local Law 11 that authorized Department of Sanitation-issued judgments to be referred to City Marshals. The law has contributed to a significant increase in referrals to both the City Sheriff and City Marshals. Referrals to enforcement agents went from single digits during the past several years to nearly 500 during fiscal year 2015. This and other initiatives have contributed to an improvement in debt collection in the 2015 fiscal year to a record \$50.1 million, a 21-percent increase over the \$41.5 million collected in fiscal year 2014.

I will start my testimony today with a presentation relating to our Local Law 11 report. It begins with some background information, highlights the findings of the Local Law 11 report, includes some additional analysis, and concludes with next steps. After the presentation, I will turn to the legislation before the committee today — Introduction Numbers 806-A, 807, and 810. OATH will address Introduction Numbers 811 and 812.

**Int. No. 806-A**

As indicated during our presentation, the Department supports this legislation, on which we have worked closely with the Council Finance chair and staff. It will establish an amnesty

program to provide incentives to citizens with ECB-adjudicated debt to come forth and pay their open judgments. The bill does the following:

- Authorizes the Commissioner of Finance to establish a 90-day amnesty program during fiscal year 16 for ECB-adjudicated judgments.
- Waives interest charges on all judgments resolved under the amnesty program. Furthermore, for judgments that had a hearing at the ECB, respondents will also receive a 25% reduction off the base fine. Judgments in default (that did not have a hearing) will still owe 100% of the base fine but will have default penalties waived.
- Requires amnesty participants with violations requiring a corrective action to fix the underlying condition within six months.
- Excludes from the amnesty program judgments that already included in settlement agreements with DOF or the Law Department. A respondent with a criminal investigation related to his or her judgment will also be excluded.
- Waives at most half the default penalty on violations eligible for amnesty if respondents choose to enter into a settlement agreement with DOF after the amnesty program. (Settlement agreements for judgments issued after amnesty will allow for all penalties to be waived).
- Requires the Commissioner of Finance to publicize the amnesty program to maximize public awareness and participation.

Beyond what is mandated in the amnesty legislation, the Department of Finance will also administratively obtain Employer Identification Number information for City vendors and match that against the vendors' ECB judgments to stop vendor payments to respondents with judgment debt. We plan to put this in motion and believe we can complete this by the time the amnesty period ends. We believe the amnesty program, combined with these new enforcement efforts, will improve how quickly we obtain money owed to the City so that the funds can be used for essential programs and services.

**Int. 807 (Ferrerias-Copeland)**

Agencies that issue violations returnable to the Environmental Control Board sometimes issue those notices to a generic "owner of" a specified entity or address when the issuing agency is unable to identify the name of the entity or property owner. This bill clarifies that ECB should treat a generic notice in the same manner as if the notice had cited the owner of the specified entity or premises by name. This bill also requires an agency that issues a generic notice to make best efforts to learn the respondent's true name after issuing the notice. Finally, the bill provides that when a default decision is rendered on a generic notice and the judgment is given to the Department of Finance for collection, the Commissioner of Finance must make best efforts to learn the respondent's true name.

The Department generally supports this legislation, although it largely impacts agencies which issue violations and may have additional operational concerns. While the number of these violations is not insignificant, with 3,284 judgment violations totaling \$8 million in our inventory issued to “Owner of” properties, it is very small relative to the overall inventory of 1.4 million violations totaling nearly \$1.6 billion. We do not support the provision requiring DOF to mail a copy of the default decision in these cases. This is already done by ECB, and we issue our own collection letters.

**Int. 810 (Kallos)**

This bill allows a city agency that issues violations returnable to ECB to suspend or revoke licenses and permits issued by that agency, or deny applicants for such licenses or permits, where the licensee, permittee or applicant has failed to pay penalties previously imposed by ECB. Suspension, revocation or denial may take place in three situations: where the permittee, licensee or applicant has \$50,000 in unpaid ECB debt after two years or \$25,000 in unpaid ECB debt after four years; or where the licensee, permittee or applicant had \$10,000 in unpaid ECB debt, was party to a payment plan and has missed three or more consecutive payments. This bill authorizes agencies to suspend licenses and permits of entities with ECB judgments. It is an option rather than a mandate.

DOF supports the concept that agencies should suspend, revoke, and deny licenses and permits for certain reasons. However for some agencies, particularly those that ensure safety conditions, suspending or revoking a permit or license **could** complicate the regulatory process, and it is important to ensure that their views are taken into account as we continue conversations about this legislation. One example where an agency has been successful in striking the right balance is the Department of Transportation. It has a successful permit suspension program. However, the bill as currently envisioned may potentially result in fewer actions against licenses and permits because of the high-dollar and lengthy time triggers in section eight. These need to be reworked with issuing agencies and DOF or left to DOF rulemaking. Another option the Council may wish to consider is requiring licensing and permitting agencies to report to the Council on the extent to which they are currently checking licensees, permittees or applicants to determine if they have outstanding judgments.

Thank you for the opportunity to testify today. The Department appreciates the attention the Council has brought to this issue and our ongoing work to improve our collection efforts. I welcome any questions you may have.